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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

In re D.L., a Person Coming Under the
Juvenile Court Law.

SAN BERNARDINO COUNTY
CHILDREN AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

A.L.,

Defendant and Appellant.

E065967

(Super.Ct.No. J262444)

OPINION

APPEAL from the Superior Court of San Bernardino County. Erin K. Alexander,
Judge. Reversed with directions.

Jacob I. Olson, under appointment by the Court of Appeal, for Defendant and
Appellant.

Jean-Rene Basle, County Counsel, and Adam E. Ebright, Deputy County Counsel,
for Plaintiff and Respondent.

I

INTRODUCTION

A.L. (mother), the mother of D.L., appeals from a judgment terminating her parental rights. (Welf. & Inst. Code, § 366.26.)¹ Mother filed an opening brief contending that the juvenile court failed to comply adequately with the inquiry and notice requirements of the Indian Child Welfare Act (ICWA). (25 U.S.C. § 1901 et seq.; Cal. Rules of Court, rule 5.480 et seq.) Mother seeks reversal and remand to address the deficiencies in the ICWA notice. Father is not a party to the appeal. CFS² concedes the ICWA notice is defective and agrees reversal and remand are appropriate.

After our own review of the record, we conclude that the juvenile court failed to comply with the inquiry and notice requirements of ICWA, and we reverse with directions.

II

FACTUAL AND PROCEDURAL BACKGROUND

The parents brought the two-month-old child to the hospital in October 2015, with significant injuries—a right femur fracture, a subdural hematoma, a bump and swelling on the left side of the head, bleeding in the brain, six healing posterior rib fractures, healing leg fractures, and bilateral skull fractures. The child was detained on October 5,

¹ Further statutory references are to the Welfare and Institutions Code unless stated otherwise.

² San Bernardino County Children and Family Services.

2015. Due to the severity of the child's injuries, CFS recommended services for the parents be bypassed according to section 361.5, subdivision (b)(5) and (6).

At the detention hearing, both parents claimed Cherokee ancestry. On November 4, 2015, CFS interviewed the parents at length. CFS determined that both "parents have substance abuse issues, report a traumatic upbringing, and have not provided information about how their child received the traumatic injuries."

In spite of CFS having interviewed the parents, the ICWA notice had the wrong birthdate for father and no information about any of his family members. Information about the paternal grandmother, for example, was available and she had been contacted by CFS but she was not identified on the ICWA notice. The Cherokee tribes responded that the child was not a member or eligible for membership. The court found ICWA did not apply.

The court terminated the parental rights at the section 366.26 hearing held May 7, 2016.

III

DISCUSSION

Notice under ICWA must contain sufficient information to determine the child's direct ancestors. (§ 224.2, subd. (a)(5); *In re Francisco W.* (2006) 139 Cal.App.4th 695, 703.) As the parties agree, given CFS's failure to provide adequate ICWA notice, reversal is therefore appropriate. (*In re A.B.* (2008) 164 Cal.App.4th 832, 839; *In re Louis S.* (2004) 117 Cal.App.4th 622, 630.) Although only mother has appealed, the

parental rights termination order must be reversed as to both mother and father. (*In re Mary G.* (2007) 151 Cal.App.4th 184, 208.)

IV

DISPOSITION

We reverse the order terminating parental rights.

The juvenile court is directed to order CFS to provide adequate notice which contains specific information concerning father's relatives pursuant to the provisions of ICWA. If, after proper notice and inquiry, a tribe determines that D.L. is an Indian child as defined by ICWA, the juvenile court is directed to conduct a new section 366.26 hearing in conformity with the provisions of ICWA. If there is no response or the tribes determine that D.L. is not an Indian child, the juvenile court is directed to reinstate all previous findings and terminate parental rights.

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CODRINGTON

J.

We concur:

HOLLENHORST

Acting P. J.

MILLER

J.